IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.3619 of 2005

Date of Decision: December 18, 2007

M/s P.L.Steel Industries & others .....Appellants.

Versus

Balwinder Kaur and another .....Respondents

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Sudhir Aggarwal, Advocate for the appellants.

Mr.Sukhpal Singh, Advocate for the respondents.

S. D. ANAND, J.

1. FAO Nos.3619 and 5296 of 2005 involving same point of law are being taken up for joint disposal.

2. Though the appellants initially filed a claim petition under Section 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"), their request for conversion of the petition into a petition under Section 163-A of the Act was allowed. It is beyond the pale of controversy that the order aforementioned has not been challenged till date and has attained finality.

3. The grievance of the appellants, as projected before this Court, is that the impugned order is invalid because the Tribunal also proceeded to record a finding that the impugned accident had occurred on account of rashness and negligence on the part of the driver of the offending vehicle in the causing of the impugned accident.

4. The plea is unacceptable on the face of it for the reasons

indicated hereunder.

5. As per the scheme envisioned by the Act, the claimants to the petition under Section 140 of the Act are required to prove that the impugned accident had occurred on account of rashness and negligence on the part of the driver of the offending vehicle. However, in the case of a petition under Section 163-A of the Act, the claimants are not required to prove the aforementioned fact. At the same time, the claimant-respondents cannot be non-suited just because the Tribunal opted to record a finding on point of the liability for the causing of the impugned accident as well. At best, it may be said that the Tribunal erred in recording a finding on point of rashness and negligence on the part of the driver of the offending vehicle. How, in any case, would that error on the part of the learned Tribunal adversely affect the claimants and would disable them to claim compensation, is beyond logical comprehension.

6. This Court is of the considered view that the error on the part of the Tribunal in the context noticed above notwithstanding, the claimant-respondents cannot be made to suffer for that. Even if, in a petition under Section 163-A of the Act, the learned Tribunal erroneously records a finding in the relevant context, it would not disable the claimants from claiming compensation.

7. No other point was argued before this Court.

8. In the light of foregoing discussion, the FAO filed by the registered owner of the offending vehicle shall stand dismissed.

(S. D. ANAND)
JUDGE

December 18, 2007
SRM

Note: Whether referred to reporter ? Yes/No